

# OFFER OF SALE

The goods, services or work (referred to as the “Services”) offered by AeroEngineering4.0, its subsidiaries, or corporate parents (“Seller”) are offered for sale at prices indicated in the offer, or as may be established by Seller. The offer to sell the Services and acceptance of Seller’s offer by any customer (“Buyer”) is contingent upon and will be governed by all of the terms and conditions contained in this Offer of Sale. Buyer’s order for any Services specified in Buyer’s purchase document or Seller’s offer, proposal, quote, or estimate (“Estimate”) attached to the purchase order, when communicated to Seller verbally, or in writing, shall constitute acceptance of this offer.

## 1. Definitions:

**Buyer:** means any party/parties receiving an Estimate from Seller for the supply of services, or a party/parties committing to procure services from Seller where preexisting conditions of purchase have not been mutually agreed.

**Service(s):** means any goods, services, or work to be performed by the Seller, as described in in a statement of work mutually agreed between the Buyer and Seller.

**Seller:** means Seller, its affiliates, subsidiaries, corporate parents, and other registered legal trade names including regionally defined DBA’s

**Party or Parties:** means Buyer and Seller

**Key Person:** means a person designated by the Seller as essential to the performance of the Services, to the extent that the Services could not be completed in the absence of the designated person.

**Fixed Price Contract:** means a type of contract where the payment amount does not depend on resources used or time expended.

**Not to Exceed Contract:** means a type of contract where the maximum amount payable to the Seller for the Services is constrained by the Buyer.

**Terms:** means the terms and conditions of this Offer of Sale.

## 2. Contract Order and Conflict:

If any Service is performed without a statement of work in place, Buyer agrees to be bound by this Offer of Sale.

In the event and to the extent any of these Terms and any subsequently agreed terms and conditions address the same or substantially the same subject matter but do not actually conflict, the more recent agreed terms and conditions shall be deemed to have superseded these Terms.

In the event and to the extent any of these Terms are omitted from subsequently agreed terms and conditions, such omitted terms will remain in force.

Reference to Buyer's purchase order or purchase order number on Seller's invoice shall in no way constitute an acceptance of any of Buyer's terms or conditions of purchase. No modification to this Offer of Sale will be binding on Seller unless agreed to in writing and signed by an authorized representative of Seller. For the avoidance of doubt, digital authorizations like those issued in e-mails and signatures inserted in documents are accepted as signed authorizations.

## 3. Charge Rate Terms:

Buyer shall compensate Seller for all incurred labor time when performing the Services. The hourly rate for the performance of Services shall be provided by Seller and agreed by Buyer in writing. In the event Services are performed in the absence of a mutually agreed rate or there is a dispute over rate applicability to the Services, both Parties agree the default billing rate shall be \$250.00 per hour. The Seller reserves the exclusive right to determine the appropriate number and skills of applied resources to perform the Service. To a best effort extent, the Seller shall notify the Buyer of the estimated cost to perform the Services in advance of Service performance. Seller reserves the right to charge to the next full hour if the Service extends into any additional hour(s). Buyer shall compensate Seller a 30% mark-up for all incurred essential purchases required for the Services. Title for essential purchases (as applicable) paid for by Buyer shall transfer to Buyer upon completion of work or termination. An estimate of cost provided by the Seller shall not be considered or construed as a Fixed Price Contract, or a Not to Exceed contract.

## 4. Payment Terms:

The Buyer shall pay the seller within 30 Days of receipt of invoice in US Dollars.

A 10% late fee will be added to the invoice if the payment is not received per the payment terms.

An additional 10% late fee will be added every additional 30 days the payment is not received.

Late fees will be calculated based on the invoice value, inclusive of previous late fees.

## **5. Sales Tax:**

A tax-exempt certificate, if applicable, is required when Buyer resides in a state which charges state tax on Services

Buyer shall be solely responsible for and pay any taxes or other assessments required to be paid in connection with Seller's performance of the Services. Further, if Seller is charged and required to pay any state, provincial or local sales or use taxes in connection with any transaction hereunder, Buyer will reimburse Seller for such tax unless Buyer advises Seller that an exemption applies. Seller will provide Buyer with any necessary supporting documentation to claim a reimbursement for any sales or use tax. Buyer agrees if a state tax is determined to be due after invoicing, then Buyer will retain the liability for tax payment accept and pay supplemental invoice(s) for any taxes due

## **6. Inspection Services:**

If inspection services will be provided for parts or items ("Parts") delivered to Seller:

- a. Such services shall be rendered according to an agreed scope of work.
- b. Buyer shall retain ownership of the Parts provided for inspection Services.
- c. Parts provided to Seller are to be insured by Buyer at all times. It is the Buyer's sole responsibility to obtain adequate insurance on the parts and items. In any event, Seller is not responsible for any loss or damage to the parts and shall not be subject to any claims for said loss or damage, including subrogated claims from Buyer's insurer.
- d. Buyer must notify Seller if such parts are "for flight" or a "production part". Seller hereby declines all assumption of risk or liability or responsibility for the end use of the parts subject to Services, as expressly set forth in the Limited Warranty below.
- e. Inspection data in the form of electronic data, either images, report, movie or volume of data, will be supplied to the Buyer.
- f. Seller offers a service and does not guarantee, or warranty accuracy of information provided as to the presence or criticality of defects or accuracy of measurements, if any.
- g. While any data analyzed by Seller and transferred to Buyer may highlight or indicate apparent defects or measurements, it is the Buyer's sole responsibility to determine acceptability and validity of observed product defects and/or measurements.

h. Parts subject to inspection services are exchanged between the Parties using a carrier at Buyer's request. Buyer must provide a carrier account number or provide alternate instructions. Seller is not responsible for any shipping costs for parts subject to inspection services.

i. Seller hereby declines all terms contained within United Technologies document ASQR-01.

j. Seller does not maintain a Foreign Object Debris (FOD) program.

## **7. Proprietary Information (PI) and Intellectual Property (IP):**

The Parties shall execute a Proprietary Information Agreement (PIA) or Nondisclosure Agreement (NDA) outlining the respective obligations of the Parties in the management and ownership of PI and IP. In the event Services are performed without a PIA or NDA in place, the Parties agree that pre-existing, Background IP and PI shall remain the sole property of the disclosing Party and any novel IP developed while in performance of the Services shall owned by the party or parties whose employee(s) would qualify as sole or joint inventors, authors or owners under applicable law.

## **8. Limited Warranty:**

Seller warrants to Buyer that Services will be performed by qualified personnel.

No other agreements, representations, warranties or other matters, oral or written, purportedly agreed to or represented by or on behalf of Seller by any of its employees or agents, or contained in any sales materials or brochures, shall be deemed to bind the parties hereto with respect to the subject matter hereof. Buyer acknowledges that it is entering into this Agreement solely on the basis of the representations contained herein.

This warranty is in lieu of all other warranties express, implied or statutory, written or oral, and DOES NOT INCLUDE ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE.

## **9. Limitation of Liability:**

IN NO EVENT SHALL SELLER OR ITS OWNERS, EMPLOYEES AGENTS, AFFILIATES, BUSINESS PARTNERS, VENDORS, OR SUPPLIERS BE LIABLE FOR DIRECT, INDIRECT, INCIDENTAL SPECIAL OR CONSEQUENTIAL DAMAGES, EITHER IN CONTRACT OR TORT, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES HAS BEEN DISCLOSED IN ADVANCE OR COULD HAVE BEEN REASONABLY FORESEEN, FOR CLAIMS BY ANY PARTY OTHER THAN BUYER ARISING FROM OR IN CONNECTION WITH

OR RESULTING FROM THE SERVICES OR UNAUTHORIZED ACCESS TO OR ALTERATION OF DATA, OR OTHER INFORMATION THAT IS SENT OR RECEIVED OR NOT SENT OR RECEIVED BETWEEN THE PARTIES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, USE, DATA OR OTHER INTANGIBLES.

In the event this limitation of damages is held unenforceable, the parties agree that by reason of the difficulty in foreseeing possible damages, all liability of Seller to Buyer shall be limited in aggregate per annum and once per instance to two million dollars (\$2,000,00.00 USD) as liquidated damages and penalties

#### **10. Indemnification:**

The Parties will indemnify, defend and hold harmless the other including its officers, employees, subcontractors and agents from and against any and all losses, liabilities, damages, claims and expenses, including without limitation, legal expenses and reasonable attorney's fees arising out of the death or injury to any person or persons or out of any damage to property and against any losses, liabilities, damages, claims and expenses of any kind whatsoever resulting from a defect in the design or of any product sold, leased, distributed or licensed by the Buyer incorporating the work provided by Seller. However, if the Buyer is an attorney, insurer, expert or the like seeking to compensate Seller to perform Services for use in litigation or potential litigation, then the Buyer will indemnify and hold harmless the Seller, its officers, employees, subcontractors and agents from and against any and all losses, liabilities, damages, claims and expenses, including without limitation legal expenses and reasonable attorney fees arising out of claims concerning the services and data supplied by the Seller.

#### **11. Data Control:**

Seller may provide data through various digital media transfer means. It is Buyer's responsibility to protect the data once in receipt of the Buyer, and to apply reasonable effort to protect access to the data (other than the Seller's access).

Seller does not offer data storage as part of its regular service. Seller offers archived data retention on a separate basis that can be quoted if required by Buyer. Seller may elect to securely discard data as early as 90 days after the completion of Service. Nothing in this Agreement shall be construed to require the return or destruction by the receiving Party of any materials, documents, or information stored on any media whose retention by the receiving Party is required by government statute or regulation or by Nadcap, industry consensus, or prime contractor standard or specification.

Buyer hereby grants to Seller an exclusive, transferable, perpetual, irrevocable license, under Seller's IP rights to gather, utilize and store data for the purposes of a) providing the contracted goods and service, b) performing Statistical Process Control (SPC) and other periodic quality control checks against the data, c) developing and improving analytical methods used to provide goods and services, d) fulfilling contractual or policy obligations relating to data storage. If necessary, data retained after completion of the contract may be randomized to protect Buyer's data privacy and intellectual property.

#### **12. Entirety of Agreement, Waiver, Severability & Governing Law:**

This Offer of Sale constitutes the entire agreement between the parties. Failure of either Party to enforce any provision herein will not invalidate that provision; nor will any such failure prejudice either party's right to enforce that provision in the future. The severability, invalidity or unenforceability of any paragraph or part of any paragraph herein shall not in any way affect the validity or enforceability of any other paragraph or term herein.

The laws of the state of Colorado USA shall govern this Agreement.

Buyer agrees to comply with all applicable laws, regulations, and industry and professional standards, including those of the United States of America, and the country or countries in which Buyer may operate, including without limitation the U.S. Foreign Corrupt Practices Act ("FCPA"), the U.S. Anti-Kickback Act ("Anti-Kickback Act"), U.S. and E.U. export control and sanctions laws ("Export Laws"), the U.S. Food Drug and Cosmetic Act ("FDCA"), and the rules and regulations promulgated by the U.S. Food and Drug Administration ("FDA"), each as currently amended. Buyer agrees to indemnify, defend, and hold harmless Seller from the consequences of any violation of such laws, regulations and standards by Buyer, its employees or agents. Buyer acknowledges it is familiar with all applicable provisions of the FCPA, the Anti-Kickback Act, Export Laws, the FDCA and the FDA and certifies the Buyer will adhere to the requirements thereof **and not take any action that would make Seller violate such requirements**. Buyer represents and agrees the Buyer will not make any payment or give anything of value, directly or indirectly, to any governmental official, foreign political party or official thereof, candidate for foreign political office, or commercial entity or person, for any improper purpose, including the purpose of influencing such person to

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purchase Services or otherwise benefit the business of Seller. The Buyer further represents and agrees it will not receive, use, service, transfer or ship any Products or Services from Seller in a manner or for a purpose that violates Export Laws or would cause Seller to be in violation of Export Laws. Buyer agrees to promptly and reliably provide Seller all requested information or documents, including end-user statements and other written assurances, concerning Buyer's ongoing compliance with Export Laws.

The United Nations Convention on Contracts for the International Sale of Goods (CISG) is hereby irrevocably and expressly excluded from application by the Parties to the goods and services exchanged under this Offer of Sale.

### **13. Export Control and compliance to FAR & DFAR:**

It is Buyer's sole responsibility to notify Seller if the Services performed by Seller is subject to US export control regulations, such as ITAR or EAR. If the Part is subject to such control, Buyer shall provide provision for secure transfer of data compliant with applicable regulation. Further, it is the Buyer's sole responsibility to explicitly notify the Seller of applicable US FAR or DFAR clauses (if any) with adequate notice prior to estimation and performance of Services.

### **14. Key Person:**

If a Key Person ceases to be employed by the Seller or becomes unable to substantially complete the Services the Seller shall have the right to discontinue performance of the Services effective upon the date of notice to the Buyer of such circumstances

### **15. Termination:**

The Services are considered "at will" and either Party may elect to stop work for whatever reason and notify the other Party 20 business days in advance. For the avoidance of doubt, all direct hours incurred by Seller in performance of stopping work following such notification shall be compensated by Buyer. Reasonable effort shall be made by Seller to minimize direct hours following a notice to stop work.

### **16. Force Majeure:**

Seller is not liable for delay or failure to perform any of its obligations by reason of events or circumstances beyond its reasonable control. Such circumstances include without limitation: accidents, labor disputes or stoppages, government acts or orders, acts of nature, pandemics, epidemics, other widespread illness, or public health emergency, delays or failures in delivery from carriers or suppliers, shortages of materials, war (whether declared or not) or the serious threat  
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of same, riots, rebellions, acts of terrorism, fire or any reason whether similar to the foregoing or otherwise. Seller will resume performance as soon as practicable after the event of force majeure has been removed. All delivery dates affected by force majeure shall be tolled for the duration of such force majeure and rescheduled for mutually agreed dates as soon as practicable after the force majeure condition ceases to exist. Force majeure shall not include financial distress, insolvency, bankruptcy, or other similar conditions affecting one of the parties, affiliates and/or subcontractors.

### **17. Limitation on Assignment and Delegation:**

Buyer may not assign or delegate its rights or obligations without the prior written consent of Seller.

### **18. Changing Terms**

Seller may change the Offer of Sale at any time and without notice. The Seller Offer of Sale in force at the time of order placement or order modification will govern the purchase and serve as the purchase contract between the parties. Before subsequent order placements or order modifications, Seller may have changed the Offer of Sale without notice. Please review the Offer of Sale prior to each purchase order or order modification.

THANK YOU FOR YOUR BUSINESS!